SENATE JOURNAL 60TH LEGISLATURE TWENTY-THIRD LEGISLATIVE DAY

Helena, Montana Senate Chambers February 2, 2007 State Capitol

Senate convened at 1 p.m. President Cooney presiding. Invocation by Father Jerry Lowney. Pledge of Allegiance to the Flag.

Roll Call. All members present, except Senators Stapleton, Schmidt, Brueggeman, excused. Quorum present.

Yeas: Bales, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, Pease, Perry, Peterson, Ryan, Smith, Squires, Steinbeisser, Story, Tash, J. Tropila, M. Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 42

Nays: Balyeat, Gebhardt, Jackson, O'Neil, Shockley.

Total 5

Absent or not voting: None.

Total 0

Excused: Brueggeman, Schmidt, Stapleton.

Total 3

MESSAGES FROM THE GOVERNOR

GOVERNOR BRIAN SCHWEITZER signed the following bills today and delivered them to the Secretary of the State's office: HB 1, HB 10 AND HB 42.

MESSAGES FROM THE OTHER HOUSE

House bill passed and transmitted to the Senate for concurrence: 2/2/2007

HB 287, introduced by Wiseman

House bill passed and transmitted to the Senate for concurrence: 2/2/2007

HB 317, introduced by Sinrud

House bill passed and transmitted to the Senate for concurrence: 2/2/2007

HB 384, introduced by Rice

MOTIONS

SEN. TRUDI SCHMIDT, SD 11, GREAT FALLS moved SB 243 be re-referred to Finance and Claims Committee. Motion carried.

SEN. JOSEPH TROPILA, SD 13, GREAT FALLS moved SB 172 from second reading re-referred to State Administration Committee. Motion carried.

FIRST READING AND COMMITMENT OF BILLS

The following Senate bills were introduced, read first time, and referred to committees:

SB 417, introduced by Brown, Gillan, Moss, Thomas, Blasdel, Kaufmann, Gebhardt, Black, J. Peterson, Grinde, Harrington, McNutt, Olson, Sonju, Hollenbaugh, referred to Public Health, Welfare and Safety.

SB 418, introduced by Weinberg, referred to Taxation.

SB 419, introduced by Lind, referred to Business, Labor, and Economic Affairs.

SB 420, introduced by Lind, Williams, Windy Boy, referred to Natural Resources and Energy.

SB 421, introduced by Lind, Morgan, referred to Public Health, Welfare and Safety.

The following House bills were introduced, read first time, and referred to committees:

HB 287, introduced by Wiseman, referred to Judiciary.

HB 384, introduced by Rice, referred to Judiciary.

REPORTS OF STANDING COMMITTEES

AGRICULTURE, LIVESTOCK AND IRRIGATION (Hansen, Chairman):

2/2/2007

SB 328, introduced bill, be amended as follows:

1. Title, line 5.

Following: "PRODUCTS BY"
Strike: "PUBLIC AGENCIES;"

Insert: "GOVERNMENTAL BODIES; CLARIFYING TERMINOLOGY;"

2. Page 2, line 29. Following: "or by" Strike: "open" Insert: "direct"

3. Page 2, line 29 through line 30. **Following:** "purchase" on line 29

Strike: remainder of line 29 through "sold" on line 30

4. Page 2, line 30.

Following: "procured by"

Strike: "open"
Insert: "direct"

5. Page 2, line 30 through page 3, line 1.

Following: "purchase" on line 30

Strike: remainder of line 30 through "procedures" on page 3, line 1

6. Page 3, line 4.

Strike: subsection (ii) in its entirety **Renumber:** subsequent subsections

7. Page 3, line 5. Following: "a"
Strike: "bidder"
Insert: "vendor"

8. Page 3, line 6. Following: "bid"

Strike: "or quoted price"

9. Page 3, line 9.

Strike: "public agency"
Insert: "governmental body"

10. Page 3, line 10.

Strike: "public agency's"

Insert: "governmental body's"

11. Page 3, line 16.

Following: "collected,"
Insert: "processed,"

12. Page 3, line 20. Strike: "public"

13. Page 3, line 21.

Strike: "public agencies" **Insert:** "governmental bodies"

Following: "bidding"

Insert: "or direct purchase"

And, as amended, do pass. Report adopted.

BUSINESS, LABOR, AND ECONOMIC AFFAIRS (Cocchiarella, Chairman):

SB 153, introduced bill, be amended as follows:

1. Title, line 26.

Following: "FACILITIES;"

Insert: "PROVIDING ACUPUNCTURISTS WITH LIEN RIGHTS;"

2. Title, line 30.

Following: "37-73-208," Strike: remainder of line 30

3. Page 5, lines 4 through 5.

Strike: "or" on line 4 through "outpatient" on line 5

2/2/2007

Insert: ", a" Following: "diagnostic" on line 5 Strike: "," 4. Page 5, line 6. Strike: "an" Insert: "a diagnostic" 5. Page 6, line 28. **Strike:** "45" **Insert:** "46" 6. Page 25, line 28. Following: "(11)" Insert: "(a)" 7. Page 26. Following: line 1 Insert: "(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed circuit television cameras and battery-operated door devices." 8. Page 27, line 26. **Following:** "(23)" Insert: "(a)" 9. Page 27. Following: line 28 Insert: "(b) The term does not include a person whose primary business is that of a locksmith and who may also install closed circuit television cameras and battery-operated door devices." 10. Page 34, line 30 through page 51, line 15. Strike: sections 43 through 46 in their entirety Renumber: subsequent sections 11. Page 52, line 3. Following: "Therapist," Insert: "Acupuncturist," 12. Page 52, line 8. Following: the second "therapists," Insert: "acupuncturists," 13. Page 52, line 28. Following: the second "therapists," Insert: "acupuncturists,"

14. Page 53, line 2.

Following: the second "therapist," Insert: "acupuncturist," 15. Page 53, line 9. Following: the second "therapist," Insert: "acupuncturist," 16. Page 53, line 19. Following: the second "therapist," Insert: "acupuncturist," 17. Page 53, line 26. Following: the second "therapist," Insert: "acupuncturist," 18. Page 54, line 4. Following: the second "therapist," Insert: "acupuncturist," 19. Page 54, line 9. Following: the second "therapist," Insert: "acupuncturist," 20. Page 54, line 18. Following: the second "therapist," Insert: "acupuncturist," 21. Page 54, line 21. Following: "therapist," Insert: "acupuncturist," 22. Page 54, line 27. Following: "therapy," Insert: "acupuncture," 23. Page 55, line 2. Following: the second "therapist," Insert: "acupuncturist," And, as amended, do pass. Report adopted. SB 165, introduced bill, be amended as follows: 1. Page 4, line 13. Following: "(2)"

Insert: "(a)"

2. Page 4.

Following: line 14

Insert: "(b) The department may charge a licensee for no more than three examinations a year under this section."

And, as amended, do pass. Report adopted.

SB 209, introduced bill, be amended as follows:

1. Title, line 8. **Strike:** "15-1-121,"

2. Page 2, line 8 through page 13, line 24.

Strike: section 2 in its entirety **Renumber:** subsequent sections

3. Page 14, line 2.

Following: "60."

Insert: "A process server who holds a valid certificate of registration from a clerk of court in this state as of July 1, 2007, shall present the registration certificate to the board, and the board shall exchange that registration certificate for a new certificate that expires on March 31, 2009."

4. Page 15, line 4.

Following: "60."

Insert: "A clerk of court holding a surety bond for a process server under this section as of June 30, 2007, shall transfer the original bond and any supporting documentation to the board on July 1, 2007."

And, as amended, do pass. Report adopted.

FINANCE AND CLAIMS (Schmidt, Chairman):

2/2/2007

SB 22, introduced bill, be amended as follows:

1. Page 1, line 15. **Strike:** "150%" **Insert:** "175%"

2. Page 1, line 16 through line 17.

Following: "level" on line 16

Strike: remainder of line 16 through "SUBSECTION(5)," on line 17

3. Page 2, line 1 through line 6.

Strike: line 1 through "PARTICIPATE." on line 6

And, as amended, do pass. Report adopted.

SB 75, introduced bill, be amended as follows:

1. Title, line 12.

Following: "REVENUE"

Insert: "PLUS ROYALTY REVENUE RECEIVED FROM THE LEASING AND PRODUCTION OF MINERALS"

2. Title, page 2, line 1. **Following:** "77-1-608,"

Insert: "AND"

3. Title, page 2, line 2. **Strike:** "AND 77-1-613,"

4. Page 4, line 8. **Following:** "exceed"

Insert: ":"

5. Page 4, line 10. Following: "10%" Insert: "(a)"

6. Page 4, line 13.

Strike: "(a)"
Insert: "(i)"

7. Page 4, line 15.

Strike: "(b)"
Insert: "(ii)"

8. Page 4, line 16.

Following: "biennium"

Insert: "; and

(b) royalty revenue received from the leasing and production of minerals, provided that the appropriation of funds received from the sale of minerals may not exceed 50% of the trust land management division's appropriated budget"

9. Page 4, line 17.

Following: "(4)"
Insert: "(a)"

Following: "17-7-304"

Insert: " and subsection (4)(b) of this section"

10. Page 4.

Following: line 19

Insert: "(b) Funds received as the result of royalties received from the leasing and production of minerals that are unreserved at the end of the fiscal year must be transferred to each of the permanent funds or to the appropriate trust or distributed to the beneficiary in proportionate share to each fund's contribution to the account."

11. Page 4, line 26.

Following: "other" Strike: "trusts" Insert: "trusts' distributable revenue accounts" 12. Page 5, line 8. Following: "following" Insert: ": (a)" 13. Page 5, line 9. Following: "77-1-108" Insert: "; (b) royalty revenue received from the leasing and production of minerals, provided that the amount resulting from the sale of minerals does not exceed 50% of the trust land management division's appropriated budget;" 14. Page 5, line 15. Following: "(d)" Insert: "(c)" 15. Page 12, line 30. Following: "77-1-608," Insert: "and" 16. Page 13, line 1. Strike: "and 77-1-613," And, as amended, do pass. Report adopted. FISH AND GAME (Tropila, Chairman): 2/2/2007 SB 166, introduced bill, be amended as follows: 1. Title, page 1, line 8. Following: "RESIDENTS" **Insert:** "AND CERTAIN NONRESIDENTS" 2. Title, page 1, line 14. Strike: "AND A TERMINATION DATE" 3. Page 3, line 3. Following: "members --"

4. Page 3, line 12.

Strike: "resident"

Following: "department."

Insert: "(5) Regardless of age, a nonresident who has been awarded a purple heart for service in the armed forces of the United States is entitled to fish and hunt game birds, not including wild turkeys, with a conservation license issued by the department during expeditions arranged for the nonresident by a

nonprofit organization that uses fishing and hunting as part of the rehabilitation of disabled veterans. (6)"

5. Page 3, line 12. Following: "The"
Strike: "department"

Insert: "department's"

6. Page 3, line 13. Following: "transfer" Insert: "of funds"

Following: "general fund"

Insert: "to the general license account"

7. Page 3, line 14.

Strike: "this subsection"

Insert: "subsections (4) and (5)"

8. Page 3, line 14. Strike: "Reimbursed" Insert: "Reimbursement"

9. Page 5, line 22. **Strike:** "87-1-805(5)" **Insert:** "87-2-805(5)"

10. Page 6, line 22.

Strike: section 7 in its entirety

And, as amended, do pass. Report adopted.

SB 372, introduced bill, be amended as follows:

1. Title, line 8.

Following: "FIELD"

Insert: ", EXCEPT A WOLF THAT IS KILLED WHILE ATTACKING, KILLING, OR THREATENING TO KILL A PERSON OR LIVESTOCK"

2. Page 3, line 3.

Following: "wolf"

Insert: ", except as provided in 87-3-130,"

And, as amended, do pass. Report adopted.

HIGHWAYS AND TRANSPORTATION (Pease, Chairman):

2/2/2007

SB 271, do pass. Report adopted. **SB 305**, do pass. Report adopted.

JUDICIARY (Laslovich, Chairman):

2/2/2007

SB 266, introduced bill, be amended as follows:

1. Title, line 4.

Strike: "PROVIDING"

Insert: "CLARIFYING THAT"

2. Title, line 5.

Following: "CAPACITY"
Strike: "WITH IMMUNITY"
Insert: "ARE IMMUNE"

3. Page 1, line 13. **Following:** "suit for"

Strike: "all"

Following: "damages"

Insert: ", as provided in 2-9-305"

4. Page 1, line 16 through line 17. **Following:** "office." on line 16

Strike: remainder of line 16 through "2-9-305." on line 17

5. Page 1, line 19 through line 21. **Strike:** section 2 in its entirety **Renumber:** subsequent section

And, as amended, do pass. Report adopted.

SB 318, introduced bill, be amended as follows:

1. Page 1, line 30. **Following:** line 29

Insert: "(b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking off, unloading, loading, and taxing of aircraft."

Renumber: subsequent subsections

2. Page 2, line 25. Following: line 24

Insert: "(b) "Flying of aircraft" means the operation of aircraft, including but not limited to landing, parking, taking off, unloading, loading, and taxing of aircraft."

Renumber: subsequent subsections

And, as amended, do pass. Report adopted.

LOCAL GOVERNMENT (Gillan, Chairman):

2/2/2007

SB 33, introduced bill, be amended as follows:

1. Page 3, line 3.

Following: "(3)"
Insert: "(a)"
Following: "entity"

Insert: "as defined in [section 1(2)(a)(i)]"

2. Page 3.

Following: line 3

Insert: "(b) Each governmental entity as defined in [section 1(2)(a)(ii)] shall complete the requirements of this

section by September 1, 2010."

And, as amended, do pass. Report adopted.

SB 244, introduced bill, be amended as follows:

1. Title, line 4.

Following: "THE"

Insert: "POTENTIAL"

2. Title, line 5.

Strike: "TO" through "\$5,000"

3. Page 1, line 13.

Strike: "less" through "\$5,000" Insert: "to exceed \$2,500"

And, as amended, do pass. Report adopted.

SB 245, do pass. Report adopted.

SB 261, do pass. Report adopted.

SB 320, introduced bill, be amended as follows:

1. Title, line 5.

Strike: "DEFINITIONS" **Insert:** "DEFINITION"

Strike: ""RESORT AREA" AND"

2. Page 1, line 23.

Strike: "and"

3. Page 1, line 25.

Following: "(b)"

Insert: "has a population of less than 2,500 according to the most recent federal census or federal estimate;

(c)"

Strike: "a"

Insert: "the major"

4. Page 1, line 29.

Following: "7-6-1508"

Insert: "; and

(d) has been designated by the department of commerce as a resort area prior to its establishment by the county commissioners as provided in 7-6-1508"

And, as amended, do pass. Report adopted.

TAXATION (Elliott, Chairman):

2/2/2007

SB 316, introduced bill, be amended as follows:

1. Title, line 7.

Strike: "THROUGH EMINENT DOMAIN PROCEEDINGS"

Insert: "FOR A PUBLIC USE"

Following: "STATE"

Insert: "OR A LOCAL GOVERNMENT"

2. Page 3, line 3.

Strike: "because of an eminent domain proceeding" Insert: "for a public use described in 70-30-102"

3. Page 3, line 4.

Following: "state"

Insert: ", a county, or a municipality,"

Strike: "proceeding"

Insert: "reduction in acres"

And, as amended, do pass. Report adopted.

SECOND READING OF BILLS (COMMITTEE OF THE WHOLE)

Senator Williams moved the Senate resolve itself into a Committee of the Whole for consideration of business on second reading. Motion carried. Senator Esp in the chair.

Mr. President: We, your Committee of the Whole, having had under consideration business on second reading, recommend as follows:

- SB 125 Senator Harrington moved consideration of SB 125 be passed for the day. Motion carried unanimously.
- SB 243 Senator Balyeat moved SB 243 do pass. Motion carried unanimously.
- SB 161 Senator Laible moved SB 161 do pass. Motion carried unanimously.
- $SB\ 205$ Senator Jent moved $SB\ 205$ do pass. Motion carried as follows:

Yeas: Bales, Balyeat, Black, Cocchiarella, Curtiss, Elliott, Esp, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Murphy, Pease, Perry, Ryan, Schmidt, Smith, Squires, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President. Total 35

Nays: Barkus, Brown, Cobb, Essmann, Gebhardt, Jackson, Laible, McGee, O'Neil, Peterson, Shockley, Stapleton, Steinbeisser, Story.

Total 14

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 74 - Senator Jent moved SB 74 do pass. Motion carried unanimously.

SB 193 - Senator Laslovich moved SB 193 do pass. Motion carried unanimously.

SB 136 - Senator J. Tropila moved SB 136 do pass. Motion carried unanimously.

SB 172 - Senator J. Tropila moved consideration of SB 172 be passed for the day. Motion carried.

SB 177 - Senator Squires moved SB 177 do pass. Motion carried unanimously.

SB 181 - Senator Cobb moved SB 181 do pass. Motion carried unanimously.

Senator Williams moved the committee rise and report. Motion carried. Committee arose. Senate resumed. President Cooney in the chair. Chairman Esp moved the Committee of the Whole report be adopted. Report adopted unanimously.

THIRD READING OF BILLS

The following bills having been read three several times, title and history agreed to, were disposed of in the following manner:

SB 208 passed as follows:

Yeas: Bales, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Essmann, Gallus, Gillan, Hansen, Harrington, Hawks, Jent, Juneau, Kaufmann, Kitzenberg, Larson, Laslovich, Lewis, Lind, Moss, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 36

Nays: Balyeat, Barkus, Black, Esp, Gebhardt, Jackson, Laible, McGee, Murphy, O'Neil, Stapleton, Steinbeisser, Story.

Total 13

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 237 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 228 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 116 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 11 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

SB 239 passed as follows:

Yeas: Bales, Balyeat, Barkus, Black, Brown, Cobb, Cocchiarella, Curtiss, Elliott, Esp, Essmann, Gallus, Gebhardt, Gillan, Hansen, Harrington, Hawks, Jackson, Jent, Juneau, Kaufmann, Kitzenberg, Laible, Larson, Laslovich, Lewis, Lind, McGee, Moss, Murphy, O'Neil, Pease, Perry, Peterson, Ryan, Schmidt, Shockley, Smith, Squires, Stapleton, Steinbeisser, Story, Tash, J.Tropila, M.Tropila, Wanzenried, Weinberg, Williams, Mr. President.

Total 49

Nays: None.

Total 0

Absent or not voting: None.

Total 0

Excused: Brueggeman.

Total 1

UNFINISHED BUSINESS

SEN. COREY STAPLETON, SD 27, BILLINGS asked for a copy of the Governor's energy plan. Senator Cooney responded he wasn't sure where the bill was at this time but that he would find out and would make sure a copy of the legislation was submitted to Senator Stapleton.

ANNOUNCEMENTS

Committee meetings were announced by the committee chairs.

Majority Leader Williams moved that the Senate adjourn until 8:00 a.m., Saturday, February 3, 2007. Motion carried.

Senate adjourned at 2:12 p.m.

JOHN MUDD Secretary of the Senate MIKE COONEY President of the Senate